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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/652,627	08/31/2000	Kevin C. Schramm	BFGHP0265US	4345

7590

02/14/2002

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EXAMINER

JEFFERY, JOHN A

ART UNIT

PAPER NUMBER

3742

DATE MAILED: 02/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/652627

Applicant(s)

Schramm

Examiner

Jeffery

Group Art Unit

3742

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 1/9/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-15, 19-28 is/are pending in the application.
- ☐ Of the above claim(s) 11-15, 26-28 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-10, 19-25 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 5
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Applicant's election without traverse of Invention I directed to the aircraft heated floor panel in Paper No. 8 is acknowledged. Also, the examiner acknowledges Applicant's request for rejoinder of method claims 11-15 and 26-28 upon allowance of certain apparatus claims.

However, the examiner respectfully disagrees with Applicant's characterization of the method claims 11-15 and 26-28 as "depending" from independent claims 1 and 19 respectively. The method claims reference to the structure recited in the apparatus claims is tantamount to an incorporation by reference--they do not depend from the apparatus claims. Thus, method claims 11 and 26 are in fact independent claims which merely incorporate the structure of claims 1 and 19 respectively into the language of the recited method steps.

For the reasons outlined in the restriction requirement mailed 9/21/01, the claims directed to the method of making the panel and the apparatus claims are patentably distinct from each other despite the structural similarities noted by Applicant. Accordingly, method claims 11-15 and 26-28 are hereby withdrawn from consideration being directed to a non-elected invention without traverse.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 6, 10, and 19-23 are rejected under 35 USC 102(b) as being anticipated by Stirzenbecher (US3697728). Stirzenbecher (US3697728) discloses an aircraft heated panel with aluminum face plate 14, heater 24, and a pressure sensitive adhesive bonding the metal face sheet to the underlying support/heater layers.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under

this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1, 3, 4, 6-10, 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds (US2512875) in view of Stirzenbecher (US3697728) and further in view of CA721834. Reynolds (US2512875) discloses an electrically heated panel including electric heater 16 within adhesive layers mounted to a honeycomb support. See Fig. 1, col. 4, line 20 - col. 5, line 43. The claims differ from the previously cited prior art in calling for a metal face sheet for protecting the top of the panel. While Reynolds (US2512875) arguably discloses a metal "face sheet" 20 that would inherently provide a protection function for the underlying panel structure, nevertheless, providing a metal face sheet for protection of the underlying heated panel in an aircraft is conventional and well known in the art as evidenced by Stirzenbecher (US3697728) noting aluminum sheet 14. In view of Stirzenbecher (US3697728), it would have been obvious to one of ordinary skill in the art to provide a metal face sheet in conjunction with the previously described apparatus so that the underlying panel and electric heating element were physically protected from traffic walking thereon. The claims also differ from the previously cited prior art in calling for pressure sensitive adhesive, and cured thermoset plastic material. While Reynolds (US2512875) is silent regarding the exact type of adhesive used to bond the layers together, the use of curable thermoset materials to bond layers together in an electric heater panel is conventional and well known in the art as evidenced by CA721834 noting Page 5, lines 1-14 wherein the bonding adhesive is disclosed to comprise thermosetting resins, thermoplastic synthetic resins, and the like. As noted in CA721834, such adhesives when cured do not soften or lose their electrical insulating properties at elevated electric heater operating temperatures. In view of CA721834, it would have been obvious to one of ordinary skill in the art to use thermosetting curable adhesives for the adhesives in the previously described apparatus so that the adhesives when cured do not soften or lose their electrical insulating properties at elevated electric heater operating temperatures. With regard to the use of the recited pressure sensitive adhesives, such adhesives are well known in the art and do not constitute a patentably distinguishable characteristic of the invention.

Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds (US2512875) in view of Stirzenbecher (US3697728), CA721834 in view of "Flight International" article entitled "New Carbon Composite Material Developed", or alternatively, Stirzenbecher (US3697728) in view of "Flight International" article entitled "New Carbon Composite Material Developed". The claims differ from the previously cited prior art in calling for the honeycomb layer to be sandwiched between fiber layers. Sandwiching a

honeycomb layer between fiber layers is conventional and well known in the art as evidenced by "Flight International" article entitled "New Carbon Composite Material Developed" noting the Fibrelam 2000 carbonfibre/honeycomb sandwich structure which provides a lightweight, yet strong panel support structure ideally suited for aircraft use. In view of "Flight International" article entitled "New Carbon Composite Material Developed", it would have been obvious to one of ordinary skill in the art to provide a honeycomb/fiber sandwich in the previously described apparatus so that the panel strength was enhanced by the presence of fiber layers over and under the honeycomb layer so that a lightweight, yet strong panel support structure was provided ideally suited for aircraft use.

The non-statutory double patenting rejection, whether of the obvious-type or non-obvious-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornam*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321 (b) and (c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78 (d).

Effective January 1, 1994, a registered attorney or agent of record may sign a Terminal Disclaimer. A Terminal Disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

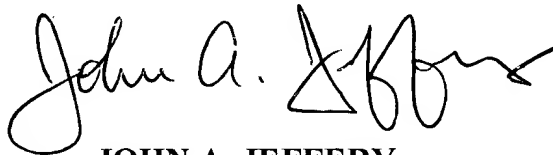
Claims 1-10 and 19-25 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2, 3, and 7-20 of copending Application No. 09/657691 in view of Stirzenbecher (US3697728). The claims differ from the claims of the copending application in calling for a metal face sheet for protecting the top of the panel. Providing a metal face sheet for protection of the underlying heated panel in an aircraft is conventional and well known in the art as evidenced by Stirzenbecher (US3697728) noting aluminum sheet 14. In view of Stirzenbecher (US3697728), it would have been obvious to one of ordinary skill in the art to provide a metal face sheet in conjunction with the apparatus disclosed in the claims of the copending application so that the underlying panel and electric heating element were physically protected from traffic walking thereon.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The art should be both separately considered and considered in conjunction with the previously cited prior art when responding to this action.

US 121 discloses an aircraft floor panel relevant to the instant invention.

Any inquiry concerning this or earlier communications from the examiner should be directed to John A. Jeffery at telephone number (703) 306-4601 or fax (703) 305-3463. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 4:30 PM EST. The examiner can also be reached on alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861.

A handwritten signature in black ink, appearing to read "John A. Jeffery", with a stylized flourish at the end.

JOHN A. JEFFERY
PRIMARY EXAMINER

2/8/02